

# The Flinn Report

Illinois

# Regulation

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**Joint Committee on Administrative Rules**

Illinois General Assembly

217/785-2254

[www.ilga.gov/commission/jcar](http://www.ilga.gov/commission/jcar)

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*Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation is designed to inform and involve the public in changes taking place in agency administration.*

## New Regulations

## Proposed Regulations

### STATE POLICE MERIT BOARD

The STATE POLICE MERIT BOARD adopted amendments to "Procedures of the Department of State Police Merit Board" (80 Ill Adm Code 150), effective 6/2/06, to add an assessment exercise (situation role-playing) component in the total score for sergeants testing for promotion to master sergeant. Previous provisions required a 50% weight for the job knowledge test and 45% for performance appraisal. The adopted rulemaking requires a 95% weight total that includes the job knowledge test, performance appraisal, and assessment exercise. The 5% for seniority in rank remains unchanged.

Questions/requests for copies: James Seiber, SPMB, 3180 Adloff Lane, Ste. 100, Springfield IL 62703, 217/786-6240.

**NEW REGULATIONS:** Rules adopted by agencies this week.

**PROPOSED REGULATIONS:** Rules proposed by agencies this week, commencing a 45-day First Notice period. Public comments must be accepted by the agency for the period of time indicated.

☞: Symbol designating rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.

**QUESTIONS/COMMENTS/RULE TEXT:** Direct mail or phone calls to the agency personnel listed below each summary. Providing volume and issue number of The Flinn Report or the Illinois Register will expedite the process. Some agencies charge copying fees. However, copy requests do not have to be made under the Freedom of Information Act.

### ☞ LAND SURVEYORS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments for rules titled "Illinois Professional Land Surveyor Act of 1989" (68 Ill Adm Code 1270). The rulemaking expands accepted methods by which professional land surveyor-in-training and professional land surveyor licensure applicants who have graduated from a land surveyor program located outside of the United States or its territories and whose first language is not English may meet DFPR's Test of English Language as a Foreign Language (TOEFL) requirement. Licensure applicants may take the TOEFL-iBT internet-based version of the test but must pass with a minimum score of 26 on the speaking module and a minimum average score of 88 for all components. The rulemaking no longer requires licensure applicants to supply a complete work history detailing all employment since meeting all educational requirements for licensure. The amendments also add a definition for "topographical survey" that includes applicable information research (e.g., utility elevations, contour lines) required to conduct a topographical survey, field requirements, and plat requirements and update the 1999 incorporation by reference of the "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys" to reflect the 2005 revisions. A number of additional changes reflect the consolidation of

various agencies into the Department of Financial and Professional Regulation. Those providing the services of land surveyors may be affected by this rulemaking.

Questions/requests for copies /comments until 7/31/06: Barb Smith, DFPR, 320 W. Washington, 3<sup>rd</sup> Fl., Springfield IL 62786, 217/785-0813, Fax 217/557-4451.

### ☞ PROPERTY TAX APPEAL BOARD

The PROPERTY TAX APPEAL BOARD proposed amendments to "Practice and Procedure for Appeals Before the Property Tax Appeal Board" (89 Ill Adm Code 1910). A new section states that PTAB's policy on discovery is to obtain full disclosure of all relevant and material facts prior to hearing and to encourage voluntary exchange by the parties of all relevant and material facts. Formal discovery will be used when less formal means have proven unsuccessful. Another new section pertains to documents submitted by a party in support of an issue pending in any appeal where a change in assessed valuation of \$1 million or more is sought before the Board. The provision states that service of documents shall commence after the contesting party has initiated a petition for appeal with the Board and after notice has been given to the board of review. Covered topics include a definition of "document", method of

(cont'd next page)

## Proposed Regulations

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service, service on PTAB, proof of service, and failure to serve. Taxpayers with appeals before PTAB may be affected by this rulemaking.

Questions/requests for copies/comments until 7/31/06: James Chipman, PTAB, 402 Stratton Bldg., Springfield IL 62706, 217/782-6076, e-mail: james.chipman@illinois.gov

### HORSE RACING

The ILLINOIS RACING BOARD proposed an amendment for "Race Officials" (11 Ill Adm Code 1306) to add to the State Steward's powers that of declaring a harness race void and ordering all wagers refunded in the event of unfavorable weather or other unavoidable cause. The Racing Board states that the proposal replicates

model rules drafted by the Assn. of Racing Commissioners International. A similar but more general authorization is currently in place for thoroughbred racing.

Questions/requests for copies/comments until 7/31/06: Mickey Ezzo, IRB, 100 W. Randolph, Ste. 7-701, Chicago IL 60601, 312/814-5017.

## Second Notices

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The following rulemaking was moved to second notice this week by the agency listed below, commencing the JCAR review period. This rulemaking will be considered at JCAR's July 11, 2006 meeting in Chicago.

### HEALTH FACILITIES PLANNING BOARD

"Health Facilities Planning Procedural Rules" (77 Ill Adm Code 1130) proposed 10/28/05 (29 Ill Reg 16173)

## JCAR 2005 ANNUAL REPORT

The Joint Committee on Administrative Rules' 2005 annual report is now available. The report summarizes agency rulemaking, JCAR actions, and public act reviews in addition to legislative and judicial actions that affected rulemaking.

Copies of the 2005 Annual Report of the Joint Committee on Administrative Rules are available to the public. The volume may be ordered for \$2.61 (\$4.20 with postage included) by sending a check to JCAR at the address listed on the front of this newsletter. It is also available online at our website at [www.ilga.gov/commission/jcar](http://www.ilga.gov/commission/jcar)

# JCAR Meeting Action

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At its June 13, 2006 meeting, the Joint Committee on Administrative Rules voted the 2 Objections and 3 Recommendations below. The following 4 rulemakings were extended for an additional 45 days and will be added to a later JCAR meeting agenda: "Standard Procurement" (44 Ill Adm Code 1; 29 Ill Reg 15678), "Standard Procurement" (44 Ill Adm Code 1; 30 Ill Reg 4203), "Licensing Standards for Day Care Homes" (89 Ill Adm Code 406; 29 Ill Reg 18180), and "Licensing Standards for Group Day Care Homes" (89 Ill Adm Code 408; 29 Ill Reg 18207). In addition, JCAR voted to publish a Notice of Failure to Remedy in the *Illinois Register* based on the Department of Healthcare and Family Services' refusal to follow statutorily directed procedures in its rulemaking titled "The Illinois Prescription Drug Discount Program" (89 Ill Adm Code 126; 30 Ill Reg 325).

## **DEPARTMENT OF CENTRAL MANAGEMENT SERVICES**

With respect to the Department of Central Management Services rulemaking titled "State of Illinois Medical Care Assistance Program" (80 Ill Adm Code 2120; 30 Ill Reg 5741), JCAR objects to the Department not adopting the rules implementing the EZ Reimburse element of the MCAP program prior to making EZ Reimburse available to recipients. The Department has been enforcing policy not in rules.

## **DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

The Committee objects to the Department of Children and Family Services proposing a change in its record retention policy in the rulemaking titled "Confidentiality of Personal Information of Persons Served by the Department of Children and Family Services" (89 Ill Adm Code 431; 29 Ill Reg 13065) without first having received approval from the State Records Commission as required by the State Records Act.

## **CARNIVAL-AMUSEMENT SAFETY BOARD**

JCAR recommends that the Carnival-Amusement Safety Board review its rules titled "Carnival and Amusement Safety Ride Act" (56 Ill Adm Code 6000) and propose rulemaking within 6 months to correct any incomplete or inaccurate incorporations by reference.

## **TEACHERS' RETIREMENT SYSTEM**

Concerning its rulemaking titled "The Administration and Operation of the Teachers' Retirement System" (80 Ill Adm Code 1650; 30 Ill Reg 6003), the Committee recommends that the Teachers' Retirement System seek specific statutory authority to not hold a special election if there is inadequate time remaining in the vacant term to allow the newly elected Board member to participate in at least one regularly scheduled Board meeting.

## **DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES**

With respect to the Department of Healthcare and Family Services' emergency rulemaking titled "Special Eligibility Groups" (89 Ill Adm Code 118; 30 Ill Reg 10129), JCAR recommends that HFS seek an amendment to 305 ILCS 5/1-11 to state that the 5-year waiting period for medical assistance does not apply to children under age 19, as provided by 305 ILCS 5/12-4.35. While Section 12-4.35 supersedes Section 1-11, unless both statutes are read together, Section 1-11 could be misleading. Further, JCAR recommends that in future rulemakings, HFS cite as its statutory authority the statute that specifically authorizes or underlies the program or change in rule and not its general rulemaking authority.

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*Illinois General Assembly*

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# **Regulation**

Joint Committee on Administrative Rules  
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